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SENATE

{ REPORT  
104-396

### UNORGANIZED BOROUGHES IN ALASKA

OCTOBER 2, 1996.—Ordered to be printed

Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, submitted the following

### REPORT

[To accompany S. 1010]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1010) to amend the “unit of general local government” definition for Federal payments in lieu of taxes to include unorganized boroughs in Alaska, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

#### SECTION 1. DEFINITION OF LOCAL GOVERNMENT.

Section 6901(2) of title 31, United States Code, is amended to read as follows:

“(2) ‘unit of general local government’ means:

“(A) a county (or parish), township, borough, or city where the city is independent of any other unit of general local government, that—

“(i) is within the class or classes of such political subdivisions in a State that the Secretary of the Interior, in his discretion, determines to be the principal provider or providers of governmental services within the State; and

“(ii) is a unit of general government, as determined by the Secretary of the Interior on the basis of the same principles as were used by the Secretary of Commerce on January 1, 1983, for general statistical purposes.

The term ‘governmental services’ includes, but is not limited to, those services that relate to public safety, the environment, housing, social services, transportation, and governmental administration;

“(B) any area in Alaska that is within the boundaries of a census are used by the Secretary of Commerce in the decennial census, but that is not included within the boundary of a governmental entity described under subparagraph (A);

“(C) the District of Columbia;

“(D) the Commonwealth of Puerto Rico;

“(E) Guam; and

“(F) the Virgin Islands.”.

#### SEC. 2. PAYMENT IN LIEU OF TAXES.

Section 6902(a) of title 31, United States Code, is amended to read as follows:

“(a)(1) Except as provided in paragraph (2), the Secretary of the Interior shall make a payment for each fiscal year to each unit of general local government in which entitlement land is located as set forth in this chapter. A unit of general local government may use the payment for any governmental purpose.

“(2) For each unit of general local government described in section 6901(2)(B), the Secretary of the Interior shall make a payment for each fiscal year to the State of Alaska for entitlement land located within such unit as set forth in this chapter. The State of Alaska shall distribute such payment to home rule cities and general law cities (as such cities are defined by the State) located within the boundaries of the unit of general local government for which the payment was received. Such cities may use monies received under this paragraph for any governmental purpose.”.

#### PURPOSE OF THE MEASURE

The purpose of S. 1010, as ordered reported, is to amend the Federal Payment in Lieu of Taxes Act of 1976 to include the unorganized borough in Alaska within the definition of “unit of general local government.”

#### BACKGROUND AND NEED

The Federal Payment in Lieu of Taxes (PILT) Act of 1976 (P.L. 94-565 as amended) provides for payments to local governments which have tax-exempt Federal lands within their boundaries. The funding is designed to help relieve the fiscal burden which Federal lands impose on local governments through a reduced property tax base.

The PILT Act authorizes and directs the Secretary of the Interior (the “Secretary”) to make payment for each fiscal year to each unit of general local government in which entitlement land is located. In Alaska, a borough is the approximate equivalent unit of local government to a county. The current law provides for payments to “boroughs existing in Alaska on October 20, 1976.” This language, however, is silent on payments for entitlement lands where organized local governments do not exist. In Alaska, many rural towns and 60 percent of the Federal lands are located outside the boundary of an organized borough. As a result, some of these rural communities that are surrounded by Federal lands receive no PILT payments.

Under current criteria, Alaska ranks tenth in total disbursement payments for eligible states. If fully appropriated, authorizing the unorganized borough to receive PILT payments would result in added expenditures of approximately \$3 million per year. S. 1010 would affect the definition of entitlement lands only as it relates to Alaska.

#### LEGISLATIVE HISTORY

S. 1010 was introduced on June 30, 1995 by Mr. Stevens on behalf of himself and Mr. Murkowski. The Senate Energy and Natural Resources held a hearing on June 11, 1996. At the business meeting on September 12, 1996, the Committee on Energy and Natural Resources ordered S. 1010, as amended, favorably reported.

### COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The Committee on Energy and Natural Resources, in open business session on September 12, 1996, by unanimous voice vote of a quorum present, recommends that the Senate pass S. 1010, if amended as described herein.

### COMMITTEE AMENDMENTS

During the consideration of S. 1010, the Committee adopted an amendment that providing that in considering Alaska's unorganized borough for eligibility for PILT payments, the decennial census areas of the unorganized borough used by the Secretary of Commerce shall be used to calculate the level of payment.

### SECTION-BY-SECTION ANALYSIS

Section 1 amends 31 U.S.C. 6901(2), which defines "unit of general local government", to recognize the unorganized borough in Alaska as a unit of general local government for the purposes of eligibility to receive funds under PILT.

Section 2 amends 31 U.S.C. 6902(a) to provide for the distribution of the entitlement money of the unorganized borough to the State of Alaska for further distribution to the home rule cities and general law cities (as such cities are defined by the State) located within the boundaries of the unorganized borough. It also provides that such cities may use monies received under this paragraph for any governmental purpose.

### COST AND BUDGETARY CONSIDERATIONS

The following estimate of the cost of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, September 20, 1996.*

Hon. FRANK H. MURKOWSKI,  
*Chairman, Committee on Energy and Natural Resources,*  
*U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 1010, a bill to amend the "unit of local government" definition for federal payments in lieu of taxes to include unorganized boroughs in Alaska, as reported by the Senate Committee on Energy and Natural Resources on September 13, 1996. We estimate that enacting S. 1010 would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply to the bill. Enacting the bill could increase federal discretionary spending by about \$6 million in fiscal year 1997 and about \$43 million over the period 1997-2002, assuming appropriation of the estimated amounts.

S. 1010 would define "unit of local government" to include any land which is within a census area in Alaska, and which is not within the boundaries of a governmental entity such as a county, township, borough, or a city independent of any other unit of general local government. Enacting this bill would make about 11 cen-

sus areas in Alaska eligible for federal payments in lieu of taxes (PILT). If the Congress appropriated the full amount for which these additional units of local government, as currently organized, would be eligible under the PILT formula, then enacting the bill would increase federal discretionary spending by about \$6 million in fiscal year 1997. However, annual appropriations for PILT may not allow for full funding of the PILT for which local governments are eligible, and in such years the payments are prorated among all eligible local governments out of amounts appropriated. In fiscal year 1996, for example, the Bureau of Land Management estimates it is paying about 70 percent of the PILT that would be required if full payments were made as calculated under the formula in current law. If S. 1010 were enacted and the Congress did not increase the total appropriation for PILT, then the agency would have to reduce the apportionments to local government units that are currently eligible for PILT because the bill would increase the total number of eligible local governments sharing the appropriation.

S. 1010 contains no private-sector or intergovernmental mandates as defined in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4). This bill would benefit the local jurisdictions in Alaska by making them eligible for PILT payments totaling about \$6 million in fiscal year 1997 and \$43 million over the 1997-2002 period. If appropriations were not increased to accommodate the newly eligible areas, however, the bill would result in a redistribution of PILT payments from all other recipients to these newly eligible jurisdictions.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Victoria V. Heid and John Righter (for federal costs), and Marjorie Miller (for the state and local impact).

Sincerely,

JUNE E. O'NEILL, *Director*.

#### REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 1010. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 1010, as ordered reported.

#### EXECUTIVE COMMUNICATIONS

On, June 7, 1996, the Committee on Energy and Natural Resources requested legislative reports from the Department of the Interior and the Office of Management and Budget setting forth Executive agency recommendations on S. 1010. These reports had not been received at the time the report on S. 1010 was filed. When the reports become available, the Chairman will request that they be printed in the Congressional Record for the advice of the Senate.

The testimony provide by the Department of the Interior at the Committee hearing follows:

STATEMENT OF GWEN MASON, ASSISTANT DIRECTOR, EXTERNAL AFFAIRS, BUREAU OF LAND MANAGEMENT, U.S. DEPARTMENT OF THE INTERIOR

Mr. Chairman and members of the Committee, I am pleased to have the opportunity to testify today on S. 1010, a bill to amend the Payments in Lieu of Taxes Act (PILT Act) (31 U.S.C. § 6901–6907). The PILT program was created by Congress in 1976 to provide Federal funds to local governments to help compensate for tax revenues they cannot collect on certain Federal lands located within their boundaries.

The payments are made to local governments from the Federal government “in lieu” of tax revenues the local governments cannot collect. Since 1977, the Bureau of Land Management (BLM) has distributed \$1.9 billion in PILT monies, \$83.5 million of this to units of local government in Alaska. In fiscal year 1995, the BLM distributed a total of \$100.9 million to units of local government, \$4.7 million of this to units of local government in Alaska.

The BLM strongly supports the PILT program. We are well aware of how important these payments have become to local government, often comprising a significant portion of their operating budget. PILT monies have been used for such critical functions as local search and rescue operations, road maintenance, law enforcement, schools, and emergency services. It is the BLM’s responsibility to calculate the payments according to formulas set by law, and distribute the funds. It is not our role to determine which entities receive the funds. Therefore, we have analyzed S. 1010, but do not feel it appropriate to take a position. However, we would not support a change that would have the effect of expanding the scope of the PILT program, and perhaps lead to an increased need for annual appropriations at the expense of higher priorities.

Subsection 6901(2) of the PILT Act defines a “unit of general local government” eligible for Federal payments in lieu of taxes as: a county (or parish), a township, a borough, a city where the city is independent of any other unit of general local government, the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands. Section 1 of S. 1010 would amend this definition to include the State of Alaska, for land which is not within the boundaries of a government entity (county, parish, township, borough, or city).

Only one half of the land area in the State of Alaska is included in organized boroughs, of which there are sixteen. The remainder of the State is categorized as a single, unorganized borough. Services to the unorganized borough are paid for from the State’s General Fund. Under current law, Federal entitlement land in the unorganized borough

located outside the boundaries of an organized city does not qualify for PILT payments.

Subsection 6902(a) of the PILT Act directs the Secretary of the Interior to make payments for each fiscal year to each unit of general local government in which entitlement land is located. These units of general local government may use the payments for any governmental purpose. Section 2 of S. 1010 would provide an exception for the State of Alaska, and direct the State to distribute any payment received as a result of this bill to home rule and general law cities within Alaska. Therefore, the funds would not be distributed to the unorganized borough, but the acreage of the unorganized borough would be used to generate additional money for those communities already eligible to receive PILT payments in their own right.

In fiscal year 1995, local governments in Alaska received \$4.7 million in PILT payments. Under this legislation, PILT payments to Alaska would increase by approximately \$1.5 to \$2.5 million annually.

Funds appropriated by the Congress each year for the PILT program may or may not be equal to the amount of funds authorized for all qualifying units of local government. If sufficient funds are not appropriated, each recipient's share is reduced proportionally. This legislation would not add to the total level of PILT payments. It would, however, increase the amounts paid to Alaska and its boroughs, and reduce correspondingly the payments to all other units of local government receiving PILT payments.

It is not possible to precisely calculate the dollars effect this legislation would have on any specific unit of local government now eligible for PILT funds. However, we estimate that it would reduce the total amount to be distributed to the other units of local government by roughly \$1.5 to \$2.5 million.

This concludes my prepared comments. I will be happy to answer any questions.

#### CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by S. 1844, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

#### SEC. 6901. DEFINITIONS.

\* \* \* \* \*

“(2)” ‘unit of general local government’ means:

“(A) a county (or parish), township, borough, or city where the city is independent of any other unit of general local government, that: (i) is within the class or classes of such political subdivisions in a State that the Secretary of the Interior, in his discretion, determines to be the principal provider or providers of governmental services within the State; and (ii) is a unit of

general government as determined by the Secretary of the Interior on the basis of the same principles as were used by the Secretary of Commerce on January 1, 1983, [on January 1, 1983, by the Secretary of Commerce] for general statistical purposes. The term 'governmental services' includes, but is not limited to, those services that relate to public safety, the environment, housing, social services, transportation, and governmental administration;

*"(B) any area in Alaska that is within the boundaries of a census area used by the Secretary of Commerce in the decennial census, but that is not included within the boundary of a governmental entity described under subparagraph (A);*

*"[(B)] (C) the District of Columbia;*

*"[(C)] (D) the Commonwealth of Puerto Rico;*

*"[(D)] (E) Guam; and*

*"[(E)] (F) the Virgin Islands."*

**SEC. 6902. AUTHORITY AND ELIGIBILITY.**

*"(a)(1) Except as provided in paragraph (2), the [The] Secretary of the Interior shall make a payment for each fiscal year to each unit of general local government in which entitlement land is located[,], as set forth in this chapter. A unit of general government may use the payment for any governmental purpose.*

*"(2) For each unit of general local government described in section 6901(2)(B), the Secretary of the Interior shall make a payment for each fiscal year to the State of Alaska for entitlement land located within such unit as set forth in this chapter. The State of Alaska shall distribute such payment to home rule cities and general law cities (as such cities are defined by the State) located within the boundaries of the unit of general local government for which the payment was received. Such cities may use monies received under this paragraph for any governmental purpose."*